

Decision 06-05-011 May 11, 2006

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Biviano Medina, LOS CAL-MEX for the authority to operate as an on-call passenger stage to transport passengers and their baggage between points in San Ysidro, Santa Ana and Los Angeles, California; establish a Zone of Rate Freedom.

Application 05-08-014  
(Filed August 4, 2005)

**O P I N I O N**

**Summary**

This decision grants the application of Biviano Medina (Applicant), an individual, pursuant to Pub. Util. Code § 1031 et seq., for a certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, and to establish a zone of rate freedom (ZORF) pursuant to Pub. Util. Code § 454.2.

**Discussion**

The application, as amended by letter dated March 2, 2006, requests authority to operate as an on-call PSC to transport passengers and their baggage between San Ysidro (in the City of San Diego), Santa Ana, and Los Angeles. Applicant states that the demand for transportation between these points is increasing. The influx of people at the U.S. – Mexico border crossing at San Ysidro has created traffic problems that are difficult to control. Applicant wishes to use his fleet of seven 15-passenger vans to provide needed transportation service to the public and to help alleviate traffic congestion in the border crossing.

area. He believes the service will benefit the environment by reducing air pollution and fuel consumption.

Applicant indicates that he has a total of 14 years' experience working for various shuttle van companies, 10 years as a driver and 4 years as general manager. Attached to Applicant's letter of March 2, 2006, is his unaudited balance sheet as of December 31, 2005, that discloses assets of \$251,000, liabilities of \$50,000, and net worth of \$201,000.

The proposed adult fares between San Ysidro and Santa Ana/Los Angeles are \$13 one way and \$21 round trip. Applicant requests authority to establish a ZORF of \$5 above and below the proposed one way fare and \$7 above and below the proposed round trip fare. Applicant will compete with other PSCs, taxicabs, charter vehicles, and private automobiles in his service area. This level of competition should result in Applicant pricing his services at a reasonable level. Many other PSCs have been granted ZORFs. The requested ZORF is generally consistent with the ZORFs held by other PSCs.

Notice of filing of the application appeared in the Commission's Daily Calendar on August 11, 2005. Applicant served a notice of the application to the involved cities and counties, and the public transit agencies in the service area.

In Resolution ALJ 176-3157 dated August 25, 2005, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3157.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. The application, as amended, requests authority to operate as an on-call PSC to transport passengers and their baggage between San Ysidro, Santa Ana, and Los Angeles.
2. Public convenience and necessity requires the proposed service.
3. Applicant requests authority to establish a ZORF of \$5 above and below his proposed one way fare of \$13 and \$7 above and below his proposed round trip fare of \$21.
4. Applicant will compete with other PSCs, taxicabs, charter vehicles, and private automobiles in his operations. The ZORF is fair and reasonable.
5. No protest to the application has been filed.
6. A public hearing is not necessary.
7. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

### **Conclusions of Law**

1. Public convenience and necessity has been demonstrated and the application, as amended, should be granted.
2. The request for a ZORF should be granted.
3. Before Applicant changes any fares under the ZORF authorized below, Applicant should give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.
4. Since the matter is uncontested, the decision should be effective on the date it is signed.

5. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

## **O R D E R**

### **IT IS ORDERED** that:

1. A certificate of public convenience and necessity (CPCN) is granted to Biviano Medina (Applicant), an individual, authorizing him to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport passengers and their baggage between the points and over the routes set forth in Appendix PSC-19237, subject to the conditions contained in the following paragraphs.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. File tariffs on or after the effective date of this order. They shall become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.

- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
  - h. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.
- 3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$5 above and below his proposed one way fare and \$7 above and below his proposed round trip fare, as set forth in the application.
- 4. Applicant shall file a ZORF tariff in accordance with the application on not less than ten days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this order.
- 5. Applicant may make changes within the ZORF by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.
- 6. In addition to posting and filing tariffs, Applicant shall post notices explaining fare changes in his terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.
- 7. Applicant is authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Applicant that his evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Applicant's vehicles for service.
- 8. Before beginning service to any airport, Applicant shall notify the airport's governing body. Applicant shall not operate into or on airport property unless such operations are authorized by the airport's governing body.

9. The CPCN to operate as PSC-19237, granted herein, expires unless exercised within 120 days after the effective date of this order.

10. The Application, as amended, is granted as set forth above.

11. This proceeding is closed.

This order is effective today.

Dated May 11, 2006, at San Francisco, California.

MICHAEL R. PEEVEY

President

GEOFFREY F. BROWN

DIAN M. GRUENEICH

RACHELLE B. CHONG

Commissioners

Commissioner John A. Bohn, being  
necessarily absent, did not participate.

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY  
AS A PASSENGER STAGE CORPORATION  
PSC-19237

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Showing passenger stage operative rights, restrictions,  
limitations, exceptions, and privileges.

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All changes and amendments as authorized by  
the Public Utilities Commission of the State of California  
will be made as revised pages or added original pages.

## **I N D E X**

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SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,  
LIMITATIONS, AND SPECIFICATIONS.

Biviano Medina, an individual, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage on an on-call basis between the points described in Section II, over the routes described in Section III, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- A. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- B. The term "on-call," as used, refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs shall show the conditions under which each authorized on-call service will be provided, and shall include the description of the boundary of each fare zone, except when a single fare is charged to all points within a single incorporated city.
- C. Passengers shall be transported only between the points described in Section II.
- D. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.

SECTION II. SERVICE AREA.

- A. San Ysidro (City of San Diego)
- B. Santa Ana
- C. Los Angeles

SECTION III. ROUTE DESCRIPTION.

Commencing from San Ysidro, then over the most convenient streets and highways to Santa Ana, then to Los Angeles.